

**IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(SPECIAL ORIGINAL JURISDICTION)
WRIT PETITION NO.7216 OF 2020**

IN THE MATTER OF:

An application under Article 102 of the
Constitution of the People's Republic of
Bangladesh.

-AND-

IN THE MATTER OF:

Md. Emrul Hassan

.....Petitioner

-VS-

Bangladesh, represented by the
Secretary, Ministry of Education,
Technical and Education Division,
Bangladesh Secretariat,
Dhaka-1000 and others.

....Respondents

Mr. Muhammad Mizanur Rahman,
Advocate with
Mr. M. Najmul Huda, Advocate with
Mr. Tapan Kumar Biswas, Advocate
with Md. Abdul Motaleb, Advocate

.....**For the Petitioner**

Mr. Muhammad Rafiqul Islam, Advocate
with Mr. Mohammad Ali, Advocate

.....**For the Respondent No.4**

Mr. Md. Anichur Rahman Khan, D.A.G
with Mr. Sultan Mahmood Banna,
A.A.G with Mr. Mir Moniruzzaman,
A.A.G

.....**For the Respondents**

Heard on 28.10.2025

Judgment delivered on 05.11.2025

Present :

Mr. Justice Md. Shohrowardi

And

Mr. Justice Dihider Masum Kabir

Dhider Masum Kabir, J.

On an application filed under Article 102 of the Constitution of the People's Republic of Bangladesh, Rule Nisi was issued in the following terms:-

“Let a Rule Nisi be issued calling upon the respondents to show cause as to why they should not be directed to consider the appointment of the petitioner in the post of Junior Instructor (Tech/Electrical) as recommended by the Bangladesh Public Service Commission (BPSC) with effect from 31.07.2018 and/or such other or further order or orders passed as to this court may seem fit and proper.”

The facts relevant for the disposal of the Rule as made out in the writ petition, in short, are that the petitioner is a law abiding citizen of Bangladesh and applied for the post of Junior Instructor (Tech/Electrical) against the Recruitment Advertisement dated 28.12.2015 published by Bangladesh Public Service Commission (BPSC) and after completion of the primary recruitment process, he had been supplied with admit card bearing registration no.300708 named Md. Emrul Hassan. Then he participated in the written examination held on 20.11.2016, the result of which was published on 24.07.2017 vide Memo No. 80.109.011.00.00.05.2015/68 and was asked to participate VIVA VOCE examination on 05.10.2017. Bangladesh Public Service Commission (BPSC) finally published the list of successful candidates and provisionally recommended the petitioner, along with 27 other persons on merit (total 28 persons) in the post of Junior Instructor (Tech/Electrical) vide Memo No. 80.00.0026.301 (goponio) 17.001.17-374. Finally, the respondent No.1, appointed 24 (twenty four) Junior Instructors (Tech/Electrical) vide memo no.57.00.0000.051.11.006.2017-637 dated 31.07.2018 out of 28 (twenty eight) recommended candidates and due to adverse report of the Ministry of Home Affairs, the petitioner was denied from appointment.

Respondent No. 4 contested the Rule by filing an affidavit-in-opposition stating that antecedent of the petitioner was verified through the security service division, Ministry of Home Affairs, and it has been reported that the criminal case is pending against him. Subsequently, the Technical and Madrasha Education Division issued a letter on 30.07.2019 to the Security Service Division, Ministry of Home Affairs for further

investigation and it was informed that charge sheet No. 130(63) has been submitted by the police against the petitioner in Haliashahar P.S. Case No. 3(3)2015 under section 3/4 of the Explosive Substance Act, 1980. He is not entitled to get the appointment under Rule 4(3)(b) of the Bangladesh Civil Service Recruit Rule, 1981. Therefore, no illegality was committed by the respondent denying his appointment in the public service.

The petitioner filed a supplementary affidavit stating that Special Tribunal Case No. 61 of 2018 arising out of Haliashahar P.S. Case No. 03(3)2015 under sections 3/4 of the Explosive Substance Act, 1908, was withdrawn by the Ministry of Home Affairs, and by order dated 09.09.2025, the Metropolitan Special Tribunal No.15, Chattogram acquitted the petitioner.

Mr. Muhammad Mizanur Rahman, the learned advocate appearing on behalf of the petitioner submits that the petitioner successfully passed the written examination with 117 candidates and Viva-Voce examination with 28 candidates through the rigorous selection process of examination conducted by the Bangladesh Public Service Commission (BPSC) but he has been illegally denied from his legitimate appointment on 31.07.2018 due to the adverse report of Ministry of Home Affairs although the investigation officer illegally implicated the petitioner in the charge sheet submitted on 09.05.2017 in Haliashahar Police Station Case No. 03(3) 2015 at the instigation of the vested interested groups of his locality out of family rivalry and at the time of filing application for appointment, no case was pending against the petitioner and the respondent No.1 acted illegally in violation of the recommendation of Bangladesh Civil Service Recruitment Rules, 1981. Lastly, he submits that the government has already withdrawn the politically motivated case filed by police against the petitioner, and the concerned Court, by order dated 09.09.2025, acquitted the petitioner. He relied on a decision made in the case of Shahnaz Khatun vs. Bangladesh and others, reported in 3 CLR 22, and the State of Madhya Pradesh vs. Ramshankar Raghuvanshi and others, reported in AIR 1983 SC 374. He prayed for making the Rule absolute, directing the respondents to appoint the petitioner to the post of Junior Instructor (Tech/Electrical).

On the other hand, learned Advocate Mr. Muhammad Rafiqul Islam, appearing on behalf of the respondent No.4, submits that due to an adverse

police report, the petitioner was not appointed following the recommendation of the PSC as Haliashahar Police Station Case No. 03(03)/2015 was pending against him. He also submits that there was no illegality in barring the petitioner from the appointment. He prayed for the discharge of the Rule.

We have considered the submission of the learned Advocate Mr. Muhammad Mizanur Rahman who appeared along with learned Advocate Mr. M. Najmul Huda on behalf of the petitioner, and the learned Advocate Mr. Muhammad Rafiqul Islam, who appeared on behalf of the respondent No. 4, perused the writ petition, affidavit-in-opposition filed by the respondent No.4, and the records.

On perusal of the writ petition, reveals that the petitioner having qualification successfully passed all the examinations for appointment in the post of Junior Instructor (Tech/Electrical), and Public Service Commission (PSC) recommended his name for appointment in the said post, but his name was not published by the respondent No.1 on 31.07.2018 in the final list of candidates for appointment due to the adverse report of the intelligent department. It is found that Special Tribunal Case No. 61 of 2018 arising out of Haliashahar P.S. Case No. 3(3)2015 under sections 3/4 of the Explosive Substance Act, 1908 was pending at the relevant time against the petitioner which had been withdrawn by Ministry of Home Affairs under section 494 of the Code of Criminal Procedure, 1898 and Metropolitan Special Tribunal No.15, Chattogram by order dated 09.09.2025 acquitted the petitioner from the charge. Now, there is no pending case against the petitioner.

The fundamental principle of criminal jurisprudence is that an accused is presumed to be innocent until proven guilty by the court, but there is no time limit for the disposal of a criminal case. The petitioner is not named in the FIR, and at the time of applying for appointment pursuant to the recruitment advertisement dated 28.12.2015 published by the PSC, no criminal case was pending against the petitioner, and subsequently, he was implicated in the charge sheet by the investigating officer on 09.05.2017. Ultimately, the case was withdrawn by the government, and the Metropolitan Special Tribunal Chattogram, 15, by order dated 09.09.2025, acquitted the petitioner from the charge.

The petitioner is a young aspirant to the public service but there is an age limit of entry in the public service. Now, he is not eligible to file a fresh application for appointment in the public service. Therefore, we are of the view that the petitioner should not be deprived of his legitimate appointment as recommended by the PSC following the recruitment advertisement dated 28.12.2015.

At this stage, it is relevant here to rely on a decision made in the case of State of Madhya Pradesh v. Ramshankar Raghuvanshi, reported in (1983) 2CC 145 (148), regarding the verification of character and antecedents at the time of entry into public employment, the following observation made by Chinnappa Reddy, J, is worth pondering over:

“Should all these young men be debarred from public employment? Is government service a heaven that only angels should seek entry into it?

If government service were a world for angels only, elaborate conduct rules and discipline and appeal rules would not have been necessary to regulate their conduct after entering into that world.

It is observed that the applicant is a young aspirant to public service. In case he is denied an opportunity to serve the government now, he will become ineligible for public service later, as he would be overage. In case the criminal case finds him guilty, the respondents would be at liberty to take appropriate action against him on the basis of the verdict of the criminal court.

It is also observed that in fact and circumstances of the case, we are of the opinion that depriving an opportunity to enter government service on the ground of pendency of the criminal case against the applicant will cause irreparable injury to him which can not in any way be compensated later on when it becomes final and binding on the parties after rounds of litigation in higher courts.”

In view of the above facts and circumstances of the case and findings, observation and proposition, we find substance in the Rule.

Accordingly, the Rule is made absolute.

The respondents are hereby directed to consider the appointment of the petitioner in the post of Junior Instructor (Tech/Electrical) along with the candidates who were appointed in the post of Junior Instructor (Tec/Electrical) pursuant to recruitment notification dated 28.12.2015 within 60 (sixty) days from the date of receipt of the copy of the judgment and order.

However, there will be no order as to costs.

Communicate the judgment and order at once.

Md. Shohrwardi, J.

I agree,